

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD CHUDACOFF,

Plaintiff,

vs.

UNIVERSITY MEDICAL CENTER, *et al.*,

Defendants.

Case No. 2:08-cv-00863-RCJ-GWF

ORDER

This matter comes before the Court on the Court's Order (#615) granting Plaintiff's Motion for Sanctions (#443), entered on February 1, 2013. Plaintiff filed a Memorandum in Support of Fees (#631) on February 15, 2013.

BACKGROUND

At the January 17, 2013 hearing, the Court granted Plaintiff's Motion to Compel (#441). *See Minutes of Proceedings, Doc. #603*. The Court, in accordance with Rule 37(a)(5)(A), granted Plaintiff's Motion for Sanctions (#443) and awarded Plaintiff the costs incurred in bringing the Motion to Compel (#441). *See Order, Doc. #615*. The Court further ordered, however, that the awarded fees be offset by the expenses incurred by Defendants Bernstein, Ellerton, Carrison, and Roberts ("Defendants") in bringing their Emergency Motion to Enforce Amended Stipulated Protective Order (#609). *See id.* at 8:19-21. The Court ordered both Plaintiff and Defendants to file memoranda of costs and fees associated with bringing their respective Motions (#441, #609) no later than February 15, 2013. *See id.* at 9:19-27, 10:8-16. Plaintiff filed his Memorandum (#631) on February 15, 2013. Defendants have filed no memoranda to date, either in support of the costs incurred in bringing their Motion (#609) or in response to Plaintiff's Memorandum (#631). The

1 time to file a response to Plaintiff's Memorandum (#631) has expired. *See Order, Doc. #615* at
 2 10:1-5.

3 DISCUSSION

4 Reasonable attorneys' fees must "be calculated according to the prevailing market rates in
 5 the relevant community," considering the fees charged by "lawyers of reasonably comparable skill,
 6 experience, and reputation." *Blum v. Stenson*, 465 U.S. 886, 895-96 n. 11, 104 S.Ct. 1541 (1984).
 7 Courts typically use a two-step process when determining fee awards. *Fischer v. SJB-P.D. Inc.*,
 8 214 F.3d 1115, 1119 (9th Cir. 2000). First, the Court must calculate the lodestar amount "by taking
 9 the number of hours reasonably expended on the litigation and multiplying it by a reasonable
 10 hourly rate." *Id.* Furthermore, other factors should be taken into consideration such as special
 11 skill, experience of counsel, and the results obtained. *Morales v. City of San Rafael*, 96 F.3d 359,
 12 364 n. 9 (9th Cir. 1996). "The party seeking an award of fees should submit evidence supporting
 13 the hours worked and rates claimed," and "[w]here the documentation of hours is inadequate, the
 14 district court may reduce the award accordingly." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).
 15 Second, the Court "may adjust the lodestar, [only on rare and exceptional occasions], upward or
 16 downward using a multiplier based on factors not subsumed in the initial calculation of the
 17 lodestar." *Van Gerwen v. Guarantee Mut. Life Co.*, 214 F.3d 1041, 1045 (9th Cir. 2000).

18 Plaintiff's Counsel Jacob Hafter submitted an Affidavit (#631-1) detailing the costs
 19 incurred in preparing the Motion to Compel (#441). Mr. Hafter argues for an hourly rate of
 20 \$450.00. As in its previous Order (#635) awarding Plaintiff's attorneys' fees, the Court finds that
 21 an hourly rate of \$350.00 is commensurate with Mr. Hafter's skill, experience, and reputation. Mr.
 22 Hafter represents he spent 8 hours preparing the Motion (#441) and Supplement (#498), and
 23 reviewing correspondence from Defendants. Mr. Hafter's Memorandum also includes attendance
 24 at the hearing at which the Motion (#441) was addressed, which lasted 1.3 hours. *See January 17,*
 25 *2013 Minutes of Proceedings, Doc. #603.* Because multiple motions were addressed at the hearing,
 26 however, the Court will award fees for the approximate duration of the discussion on the Motion to
 27 Compel (#441), 0.5 hours. The Memorandum lists 6.5 hours Mr. Hafter spent deposing Defendant
 28 Bernstein; the Court will only award fees, however, for time spent preparing and bringing the

1 Motion to Compel. Accordingly,

2 **IT IS HEREBY ORDERED** that Defendants Bernstein, Ellerton, Carrison, and Roberts
3 shall pay Plaintiff \$2,975.00 in attorneys' fees no later than 14 days after the date of this Order.

4 DATED this 8th day of March, 2013.

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7 GEORGE FOLEY, JR.
8 United States Magistrate Judge
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